IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9679 OF 2004

Sirtunnisa Ismail Shaikh .. Petitioner.
Vs.
Fatimabi Jahiruddin
Naikwadi & Ors. .. Respondents.

Mr.S.G.Kudle for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 15TH DECEMBER, 2004

P.C.:

. Heard Mr.Kudle, learned counsel for the petitioner.

2. This petition is directed against the order dated 29.10.2004 passed by the trial court allowing the application with cost, filed by the defendants seeking amendment of the pleadings. Mr.Kudle, learned counsel for the petitioner assailed the order mainly on the ground that by allowing the amendment the trial court has allowed the defendants to change basic structure of the written statement. In support of his submission he placed reliance on the judgment in case of **Bhubaneswar Patel Vs. Janak Patel and Others AIR 1976 Orissa**

216. I perused the written statement and the amendment application. I am unable to accept the submissions of Mr.Kudle that the amendment changes a basic structure of the written statement. It may be worth noticising that in the alternative the petitioner had submitted before the trial court that the application seeking amendment may be allowed on payment of heavy cost. It is now well settled, that in so far as the amendment of written statement is concerned, the principles applicable to the amendment of the plaint are equally appilcable to the amendment of written statement as long as the proposed amendment does not cause prejudice and that any admission made in favour of the plaintiff is not withdrawn. In the present case, I am satisfied that the proposed amendment does not cause any prejudice or withdraws any admission made in favour of the petitioner. In my opinion, the court below has rightly allowed the amendment for the reasons recorded in the impugned order. I find not reason to interfere with the order passed by the court below. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)